

REMARKS

Reconsideration of the present application is respectfully requested.

Claims 34-80 are pending.

Abstract

Enclosed herewith is a replacement abstract which more closely reflects the invention described in the pending claims.

Double Patenting Rejection

The examiner has provisionally rejected claims 34-73 of the instant application under 35 U.S.C. 101 as claiming the same invention as that of (i) claims 209-230 of allowed Application No. 10/127,817 ("the '817 application") and (ii) claims 209-224 of allowed Application No. 10/770,969 ("the '969 application," now U.S. Pat. No. 6,900,241 issued May 31, 2005). Applicants respectfully traverse the rejections.

The parent of the current application, Application Serial No. 09/459,171 ("the 171 application") contained claims directed to treatment or prevention of atherosclerosis, thrombosis, restenosis, heart attack or stroke (claims 205-215) and method of anti-platelet therapy or prophylaxis (claims 194-204). During prosecution, the Office imposed a restriction requirement under 35 U.S.C. section 121 in which seven (7) groups of claims were identified as being patentably distinct inventions: anti-platelet therapy claims were designated Group II, and atherosclerosis treatment claims were designated Group IV (*see* Restriction Requirement dated August 20, 2002 in the '171 application, "the restriction requirement"). In response to the restriction requirement, Applicant elected to pursue claims directed to anti-platelet therapy (group II) in the parent '171 application (and subsequently in the present application) and pursued claims directed to atherosclerosis treatment in separately filed cases, Application Serial No. 10/127, 817, and Application Serial No. 10/770,969 (the '969 application is a divisional of the '817 application). These are the same applications that are now used to reject the present claims. Because the Office has previously established that anti-platelet therapy/prophylaxis and

{W:\DOCS\INJPC\1010\0101us14\00003970.DOC}
Response filed October 19, 2005
Docket No.1010/101US14

atherosclerosis treatment claims encompass separate and distinct subject matter and imposed a restriction requirement, withdrawal of the rejection is believed in to be in order. Such action is respectfully requested.

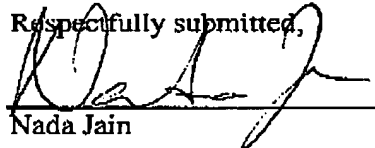
Additionally, it appears that the Examiner has interpreted the current claims as being directed to the treatment of all subjects (Office Action, page 3, last paragraph). However, the recitation of the intended purpose in a claim preamble (here, anti-platelet therapy or prophylaxis) in conjunction with the recitation of "a subject in need thereof" should be given weight as a claim limitation (*see* MPEP Section 2111.02, citing *Jansen v. Rexall Sundown, Inc.*, 342 F.3d 1329, 1333 (Fed. Cir. 2003)). Thus, the present claims should be interpreted as limited by the recitation of the subject group, and that subject group is not identical to the subject groups recited in the claims of the '817 and '969 applications.

Conclusion

In view of the above remarks, Applicants believe that the application is in condition for allowance. Such action is respectfully requested.

Date: October 19, 2005

Respectfully submitted,



Nada Jain
Reg. No. 41,431

SEND CORRESPONDENCE TO:

NADA JAIN, P.C.
560 White Plains Road
Tarrytown, NY 10591
Phone: 914-333-0610 x150

(WADOCS\N\JPC\1010\1010\us14\00003970.DOC)
Response filed October 19, 2005
Docket No.1010/101US14